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Attorney Docket No.:

Assistant Commissioner for Patents
Washington, D.C. 20231

On 6-21-99

Townsend and Townsend and Crew, LLP

By: [Signature]

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

VOLKER SCHMIDT

Application No.: 08/836,369

Filed: October 20, 1997

For: TEMPERATURE-MEASUREMENT
INSTRUMENT WITH DIFFRACTIVE OPTICS



Examiner: A. Hirshfeld

Art Unit: 2859

DECLARATION OF JOHN McCULLOCH

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1. I, John McCulloch, am a member in good standing of the Michigan bar and am registered to practice before the U.S. Patent and Trademark Office ("PTO"). I am a member of the law firm Learman & McCulloch. My business address and telephone number are 5291 Colony Drive, North Saginaw, Michigan 48603, (517) 799-5300.

2. In approximately the spring of 1997, Raytek Corporation of Santa Cruz, California asked me to file a PCT application with the PTO that Michael Tetzner, a German patent attorney, had previously prepared and filed with the European Patent Office. The PCT application was titled "Instrument With Diffraction Optics" and numbered PCT/EP96/03330. It claimed priority to an application Mr. Tetzner had previously filed with the German Patent Office.

3. As is my normal practice when asked to file in the United States a patent application that has previously been filed as a PCT application, I simply filed the PCT application with the PTO in accordance with the PTO's PCT rules without interviewing the inventor. I filed the application in approximately May 1997, and the resulting U.S. application was assigned serial number 08/836,369.

4. The only inventor named in both the German application and the PCT application at the time I filed the U.S. application was Volker Schmidt. Because I had no reason to think that any other person should be named as an inventor, I did not conduct an investigation to determine whether any other person should be named as an inventor; rather, I filed the application as it had been filed in both Germany and Europe: in Mr. Schmidt's name only.

5. To the best of my knowledge, the subject matter disclosed in the applications Mr. Tetzner prepared and filed with the German and European Patent Offices, and that I filed with the U.S. PTO, is not now and never has been under a secrecy order.

6. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed true, and further that the statements were made with the knowledge that willful false statements and the like so made are punishable

by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and may jeopardize the validity of the application or any patent issuing thereon.

2/16/99
Date

John McCulloch
John McCulloch

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